

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RICHARD LENARD,	)	
	)	CASE NO. 1:10CV02688
Petitioner,	)	
	)	
v.	)	JUDGE BENITA Y. PEARSON
	)	
SHERIFF'S DEPARTMENT, CUYAHOGA	)	
COUNTY,	)	<b><u>MEMORANDUM OF OPINION AND</u></b>
	)	<b><u>ORDER</u></b> [Regarding <a href="#">ECF No. 28</a> ]
Respondent.	)	

Before the Court is the Report and Recommendation of Magistrate Judge Kenneth S. McHargh ([ECF No. 28](#)) recommending that the Respondent's motion to dismiss Petitioner Lenard's petition for writ of habeas corpus ([ECF No. 15](#)) filed pursuant to [28 U.S.C. § 2241](#) be granted, without prejudice; that Petitioner Lenard's motion to stay be denied ([ECF No. 25](#)) and that the remaining motions, including motion for credit in habeas corpus proceeding ([ECF No. 19](#)), motion for leave to file supplemental brief ([ECF No. 23](#)), Petitioner's motion in contrast to respondent's notice of current incarceration status ([ECF No. 24](#)), and motion for evidentiary hearing or ruling ([ECF No. 26](#)), be denied as moot.<sup>1</sup>

The Federal Magistrates Act requires a district court to conduct a *de novo* review of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen (14) days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time

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<sup>1</sup> The matter was referred to Magistrate Judge Kenneth S. McHargh for the preparation of a Report and Recommendation on the petition for writ of habeas corpus pursuant to Local Rule 72.2.

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waives a party's right to appeal the district court's judgment. Thomas v. Arn, 474 U.S. 140, 145 (1985); United States v. Walters, 638 F.2d 947, 949-50 (6<sup>th</sup> Cir. 1981). Absent objection, a district court may adopt a magistrate judge's report without review. See Thomas, 474 U.S. at 149.

In the instant case, Petitioner Lenard has not filed objections to the Report and Recommendation nor has he requested an extension of time to do so. The Court finds that the Report and Recommendation is supported by the record, and agrees with the recommendation to dismiss the instant petition without prejudice for the reasons stated therein and hereby adopted.

Accordingly, the Court adopts the Report and Recommendation. ECF No. 28. Respondent's Motion to Dismiss (ECF No. 15) is granted; Petitioner's motion to stay (ECF No. 25) is denied; and all remaining motions (ECF Nos. 19, 23, 24, and 26) are dismissed as moot. Petitioner Franklin's petition (ECF No. 1) is, hereby, dismissed without prejudice.

An appeal from this decision could not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

December 29, 2011  
Date

/s/ Benita Y. Pearson  
Benita Y. Pearson  
United States District Judge